

Order

Michigan Supreme Court
Lansing, Michigan

November 24, 2015

Robert P. Young, Jr.,
Chief Justice

152137

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 152137
COA: 320571
Wayne CC: 11-000851-FH

GIOVANNI NACCARATO,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 16, 2015 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Wayne Circuit Court. The Court of Appeals, in the course of issuing two opinions in this case, correctly held that Offense Variables 1 and 2 should have been scored at 20 points and 15 points, respectively, and that the circuit court erred by failing to do so. On remand, the circuit court shall determine whether it would have imposed a materially different sentence under the sentencing procedure described in *People v Lockridge*, 498 Mich 358 (2015), upon correction of the error in scoring the offense variables. If the trial court determines that it would have imposed the same sentence absent the scoring error, it may reaffirm the original sentence, stating its reason for departing from the guidelines on the record. If, however, the trial court determines that it would not have imposed the same sentence, it shall resentence the defendant.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 24, 2015


Clerk